FROM THE OFFICE OF CONGRESSMAN JIM COSTA

Representing California's 20th District
Fresno County · Kern County · Kings County

Renewable Fuel Flexibility Act

This legislation will alter the Renewable Fuels Standard (RFS) to give relief to livestock and food producers and consumers of these products. In the 2004/2005 crop year, the last crop produced before the RFS was implemented, 53.4% of that crop went to feed livestock and poultry and 12.5% went toward ethanol production. In contrast, the corn harvest this year is projected to send 40% toward ethanol production and 37.6% to the livestock and poultry feed supply. This year livestock and poultry producers will use 1.1 billion fewer bushels of corn than the 2004/2005 crop year, and this will be the first year ever that ethanol production has used more than feeding livestock and poultry in the U.S.

This legislation will link the amount of <u>corn ethanol</u> required for the RFS to the amount of the U.S. corn supplies. This legislation sets up a process, so that twice a year, when the USDA reports on U.S. corn supplies, based upon the ratio of corn stocks- to expected use, there could be a reduction made to the RFS. This is a common sense solution to make sure that we have enough corn supplies to meet all of our demands. Additionally, the bill contains language that these reductions will only be made from corn ethanol, this does not affect advance biofuels.

How will the determination be made?
The Administrator of the Environmental Protection Agency will review the current corn crop year's ratio of U.S. corn stocks-to-use in making a determination of the RFS. This assessment will happen twice a year.

By the end of November each year when the Administrator of the Environmental Protection Agency makes the final official determination of the Renewable Fuels Standard (RFS) for the following calendar year, the Administrator shall use the U.S. Department of Agriculture report, published in the prior month's (November), *World Agricultural Supply and Demand Estimate* (or similar public and authoritative estimates provided by the Secretary of Agriculture) to determine the U.S. corn stocks-to-use ratio. The Administrator shall provide for a waiver for the RFS, for traditional corn ethanol, for the following calendar year according to the calculated stocks to use ratio as directed. Such a waiver, if required, shall be included in the Environmental Protection Agency's *Federal Register* notice regarding the RFS for the following calendar year. The required waiver, if any, will take effect January 1 of the new calendar year.

Further, *in June* of each year the Administrator shall be required to re-assess the current corn crop year's ratio of U.S. corn stocks-to-use ratio. The Administrator shall use the U.S. Department of Agriculture report *World Agricultural Supply and Demand Estimate* (or similar public and authoritative estimates provided by the Secretary of Agriculture) for June to determine the U.S. corn stocks-to-use ratio. The same ratio for the waiver as used for the December assessment shall be used for the June re-assessment in the schedule provided below. Whether a waiver is required or not, following the June re-assessment, the Administrator shall publish a *Federal Register* notice stating the Administrator's determination for the waiver to remain unchanged or to change the waiver. The Administrator in the *Federal Register* notice shall explain the reasoning and evidence for the determination regarding the waiver. The stocks-to-use ratio shall be the exclusive factor in the Administrator's final determination with respect to the waiver unless the Administrator provides clear and compelling evidence that such a waiver would not have a material effect on the quantity of corn available for use for food and feed.

Stocks-to-Use Ratio -------- *Percent* -------	Waiver to the Renewable Fuels Standard for Corn Ethanol
Above 10.00	no adjustment
10.00 to 7.50	10 percent reduction
7.49 to 6.00	15 percent reduction
5.99 to 5.00	25 percent reduction
Below 5.00	50 percent reduction